IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9464 of 1998
With
CIVIL APPLICATION NO. 5123 OF 2000

SPECIAL CIVIL APPLICATION No 9465 of 1998
With
CIVIL APPLICATION NO. 5126 OF 2000

SPECIAL CIVIL APPLICATION NO 10514 OF 1998
With
CIVIL APPLICATION NO. 4559 OF 2000

AND
SPECIAL CIVIL APPLICATION NO 985 OF 1999

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SWAMI SATYAPRAKASHDASJI GURUGHANSHYAM PRASAD SWAMI
Versus
JT.CHARITY COMMISSIONER RAJKOT

Appearance:
1. Special Civil Application No. 9464, 9465 and 10514 of 1998
Sr. Counsel Mr. Vakharia for Petitioners with
Mr. Parikh.
MR PJ KANABAR for Respondent No. 1

Mr. Prashant Desai, Ld. counsel for Jt & Asst. Charity Commissioner.

2. Special Civil Application No. 985 of 1999
Mr. P.J. Kanabar, Ld. counsel for the Petitiners
Mr. Prashat Desai, Ld. counsel for Charity Commissioner
Sr. counsel Mr. Vakharia with Ld. counsel Mr. Parikh on behalf of rest of the respondents

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CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 10/10/2000

COMMON CAV JUDGEMENT

1. These four writ petitions, almost identical, involving common questions of law and facts have been raised which are inter connected and therefore, I propose to decide all these petitions by this common judgment & order.

2. The Swaminarayan Temple Trust, Gadhada, is a trust registered under the Bombay Public Trusts Act, 1950. The District Judge of Bhavnagar, prepared a Scheme for the management of the trust properties and the Temples subordinate to them. The Scheme also provides for constitution of Board of Managing Trustee, four representatives to be elected from amongst Gruhasties, one representative each from amongst Brahmacharies, Sadhus and Palas. The elected members elect the Chairman from amongst them. The term of the members is five years and that of Chairman one year. Election of the trustees of this trust were held on 14-12-1997 and results were declared on 15-12-1997. The Returning Officer declared (1) Patel Arjanbhai Nagjibhai (now expired), (2) Patel Gordhanbhai Lakhabhai, (3) Patel Ganshyambhai Burabhai and (4) Patel Bhupatbhai Jivrajbhai, as the aforesaid persons have got highest votes in the Gruhasties post. As per provisions of the Bombay Public Trusts Act 1950, a Change Report is to be submitted regarding constitution of the members of the Board of the Trust, and accordingly Swami Satyaprakashdasji filed a change report before the Assistant Charity Commissioner on 9-1-1998, being Change Report No. 15 of 1998. The aforesaid Change Report contains the consent of the newly elected members from Garhastha constituency that they are willing to serve as members of the Board. In the meantime on 15-12-1997 an allegation was made that in the election held there were wide spread corruption and intimidation and intervention

of Charity Commissioner was sought. Simultaneously Shri. Mavji Vashrambhai along with four other persons filed a Regular Civil Suit No. 126 of 1997 in the Court of Civil Judge (J.D.) Gadhada challenging the election and they have also sought for recounting of votes. While this litigation was going on in original Court as well as Appellate and Revisional Court of Gadhada, the Assistant Charity Commissioner, Bhavnagar region passed an order on 29-4-1998 for recounting of votes. The notice was issued on 30-4-1998, to Swami Satyaprakashdasji and one Swami Bhanuprakashdasji, who were not contesting candidates, saying that the ballot papers would be inspected on 2-5-1998 at 12.30 p.m. Thus the order was passed on 29-4-1998 for recounting at Vadodara, but the candidates who are residing at Bhavnagar were not informed in time and no notice was given to the elected candidates by the Assistant Charity Commissioner. Even the notice on Swami Satyaprakasdasji was not served personally on him on 2-5-1998. An application was filed by Shri. Arjan Nagjibhai contending that the ballot boxes may not be opened except in presence of the candidates. It was submitted to the Inspector that the District Judge, Bhavnagar in appeal No. 62 of 1998 refused prayer for the recounting and therefore, the Assistant Charity Commissioner should not proceed for recounting through the Inspector. However the ballot boxes were opened on 2-5-1998 and the votes have been recounted in absence of contesting candidates and the candidates who were declared successful by the elections held on 14-12-1997 and 15-12-1997. The Returning Officer Mr. M.J. Trivedi addressed a letter to the Assistant Charity Commissioner stating inter alia that, in pursuance of the order dated 29-4-1998 he remained present at the Gopinath Devji Mandir along with Supervisor and that on seeing the entire election material, including the ballot boxes etc. it appear to have been tampered and therefore he requested the Charity Commissioner for initiating appropriate proceedings. However recounting was done on 2-5-1998 and the report was submitted before the Charity Commissioner on 30-5-1998 and on 30-5-1998 recounting report of the said date was prepared and filed before the Assistant Charity Commissioner, Bhavnagar. In the meantime on the basis of the recounting on 2-5-1998 following four persons were declared elected from Garhastha constituency, who were earlier declared defeated as per result of election on 15-12-1997:

(1) Raghavbhai Naranbhai
(2) Mavjibhai Vashrambhai
(3) Gokulbhai Nanjibhai
(4) Ganshyanm Ramjibhai;

and the name of duly elected members of the election result declared on 15-12-1997 have been cancelled. The newly elected members submitted a Change Report No. 142 of 1998 on 15-5-198 on the basis of the result of the recounting carried on 2-5-1998.

3. The Division Bench of this Court in Letters Patent Appeal No. 687 of 1998 filed by the erstwhile trustees and the Letters Patent Appeal No. 689 of 1998 filed by Satyaprakashdasji seeking a direction for staying the order of the learned Single Judge of this Court and directing that irrespective of the entry in the Public Trust Register, the elected trustees pursuant to 15th December 1997 elections are to function as trustees of the said Trust and its subordinate Temple Trust at Gadhada and hence pursuant to the said order, the newly elected trustees took over the charge of the management of the trust. The matter was taken to the Supreme Court and the Supreme Court by an order dated 22-6-1998 passed in Special Leave Petition No. 10371-72 (subsequently numbered as Civil Appeal Nos. 3191-3192 of 1998) dismissed the appeals and declined to interfere in the interim order passed by the Division Bench of this High Court dated 16-6-1998. However, the Apex Court observed that the observation of the Division Bench of this Court in the interim order dated 16-6-1998 restricting the scope of the inquiry before the Assistant Charity Commissioner will not be binding and it will be open for the parties to raise their respective contentions before the Assistant Charity Commissioner regarding the scope of Sec. 22 and the jurisdiction of the Assistant Charity Commissioner to go into the issues.

4. Pursuant to the order of the Division Bench of this Court on 16-6-98, Assistant Charity Commissioner rejected the Change Report No. 142 of 1998 and directed insertion of the names of the candidates who were declared elected on 15-12-1997. Letters Patent Appeal No. 687 and 689 of 1998 has been disposed of by the Division Bench of this Court by final order dated 10-7-1998, directing the Assistant Charity Commissioner to proceed de novo. However, litigation continued before the Assistant Charity Commissioner taking plea of res judicata in view of the orders passed by the District Judge and the High Court. The said pleas were rejected by the Assistant Charity Commissioner and proceeded with the inquiry and started taking evidence. In the de novo inquiry also no notice was issued to the elected candidates in pursuance of the election result of 15-12-1997. The Assistant Charity Commissioner proceed

with the inquiry without affording any opportunity to the elected candidates elected by 15-12-1997 election. On 17-10-1998 an order was passed by the Assistant Charity Commissioner, Bhavnagar Region, Bhavnagar, holding that there were major irregularities in the election held by the erstwhile Board of Trustees and he also directed that the applicants of Change Report No. 142 of 1998 to be entered in the Public Trust Register as per the inquiry report dated 30th May, 1998 based on the recounting of the votes. No reason has been shown by the Assistant Charity Commissioner for deleting the names of the elected candidates as per Change Report No. 15/98.

5. Swami Satyaprakashdasji who is not an elected candidate of 15-12-1997 election filed an appeal before the Jt. Charity Commissioner at Rajkot against order of the Assistant Charity Commissioner passed on 27-10-1998. The directions were issued by this High Court on 4-11-1998, directing the Jt. Charity Commissioner to hear and decide the application without being influenced by the order dated 28th October 1998. The Jt. Charity Commissioner passed order dated 9-12-1998 and decided the matter without examining the preliminary objections and contentions raised in the said appeal and he also directed to hand over the charge to the trustees as per the Change Report No. 142 of 1998 in accordance with the order passed on 17-10-1998. Having felt aggrieved by the order passed by the Assistant Charity Commissioner on 17-10-1998 and Jt. Charity Commissioner on 9-11-1998 Special Civil Application No. 9464 of 1998, 9465 of 1998 and Special Civil Application No. 10514 of 1998 have been filed to quash the aforesaid orders. Special Civil Application No. 985 of 1999 has been filed by Swami Bhanuprasaddasji and others challenging the order dated 1-1-1999 passed by the Incharge Charity Commissioner at Ahmedabad in Appeal No. 7 of 1998 which was filed before the Jt. Charity Commissioner at Rajkot by Swami Satyaprakasdasji and another. However, the litigation continues between the parties and ultimately as per the order passed by the Division Bench, the members elected in 15-12-1997 election assumed the charge and they are now functioning as members of the Board of the Trust. In this connection it is necessary to peruse the order of the Supreme Court passed in Special Leave Petitions (Civil) Nos. 10371-72 of 1998 which was converted into Civil Appeal Nos. 3191-3192 of 1998. The Supreme Court did not interfere with the order passed by the Division Bench of this High Court and passed the following order on 22-6-1998 in the following terms:

" Leave granted. Heard both sides. We are not

inclined to interfere with the interim order passed by the High Court on 16-6-1998. Learned Senior Counsel for the appellant, however, submits that the High Court ought not to have restricted the scope of inquiry by the Assistant Charity Commisioner by stating that he should only take into notice the factum of the election without going into the validity, correctness and propriety including the result thereof. Learned Senior Counsel submits that the Assistant Charity Commissioner can go into those issues in proceedings under Sec. 22 of the Bombay Public Trusts Act. On the other hand learned Senior Counsel for the respondent submits that the Gujarat High Court has already decided that the Assistant Charity Commissioner cannot go into those issues and that the High Court was right in not permitting the Assistant Charity Commissioner to go into the said issues. In reply learned senior Counsel for the appellants submits that there are also decisions in his favour which say that the Assistant Charity Commissioner can go into these issues.

It is not necessary for this Court to say anything on the above disputes. It will be open to the parties to raise their respective contentions before the Assistant Charity Commissioner regarding the scope of Sec. 22 and the jurisdiction of the Assistant Charity Commissioner to go into these issues. It is clarified that the observations of the High Court restricting the scope of the inquiry before the Assistant Charity Commissioner will not, therefore, be binding on him.

We would not be understood to have expressed anything on the merits regarding the scope of Sec. 22 or the jurisdiction of the Assistant Charity Commissioner.

Subject to the above, these Appeals are dismissed.

Sd/-

(M. Jagannadha Rao, J)

New Delhi
June 22, 1998.

Sd/-

(As. Rajendra Babu, J)

6. Present four Special Civil Applications were

earlier heard and decided by honourable Mr. Justice M.R. Calla by judgment & order dated 10, 13, 15, 16 & 17th September 1999. By aforesaid judgment & order the impugned order dated 17-10-1998 and 9-11-1998 passed by the assistant Charity Commissioner and Jt. Charity Commissioner respectively were quashed and set aside and Special Civil Application No. 985 of 1999 was dismissed. Having felt aggrieved by the judgment & order passed in said four Special Civil Applications, Letters Patent Appeals were filed before the Division Bench which were registered as Letters Patent Appeal No. 1353, 1286, 1347, 1352, 1354 and 1293 of 1999. The Division Bench of this Court by an order dated 1-5-2000 allowed all the Letters Patent Appeals and set aside the order passed by the learned Single Judge, only on the ground that necessary parties were not heard before passing the final order. It is on the basis of the aforesaid order passed by the Division Bench in the aforesaid Letters Patent Appeals, all the four Special Civil Applications have again been placed before me for decision.

7. Petitioners of Special Civil Application No. 9464, 9465 and 10514 of 1998 has been represented by Sr. counsel Mr. Vakharia and Mr. Parikh. The respondents of the aforesaid Special Civil Applications were represented by three counsels; Mr. Prashant Desai, learned counsel appears on behalf of respondent Jt. Charity commissioner and Assistant Charity Commissioner, Raghav Naranbhai Respondent No.4 and Gokalbhai Nanjibhai - Respondent No.5 who were not heard by the learned Civil Judge earlier has now been represented by Mr. P.M. Rawal, learned Sr. Counsel and other respondents are represented by learned counsel Mr. Kanabar. In Special Civil Application No. 985 of 1999 Mr. Kanabar represents the petitioners and Mr. Vakaria and Mr. Parikh represent the respondents and Mr. Prashant Desai appears on behalf of the respondents Charity Commissioner and Jt. Charity Commissioner.

8. Mr. Vakharia, learned counsel appearing on behalf of the petitioners submitted that the petitioners challenge the impugned order dated 17-10-1998 and 9-11-1998 on the ground that the petitioners were not heard by the Assistant Charity Commissioner while making an inquiry regarding the validity of the election held on 14th and 15th December 1997. It is also submitted that, no notice was issued to the elected candidates before recounting on 2-5-1998. It is also submitted by Mr. Vakharia that the Assistant Charity Commissioner has no power to examine the legality or validity of the election held on 14th and 15th December 1997. It is also

submitted by Mr. Vakharia that an allegation was made that there were intimidation and use of force in the election on 14-12-1997 and an application has also been made alleging malpractice and irregularities in the elections of 14 and 15-12-1997, but no recounting was sought by the defeated candidates. It is therefore submitted by Mr. Vakharia that since no prayer has been made for recounting of votes, the Assistant Charity Commissioner has committed an error in recounting the votes and cancelling the duly elected candidates. It is also submitted that for recounting of votes the elected members were not issued any notice nor they were present at the time of recounting. Leaned counsel accordingly submitted that the entire process of recounting is required to be quashed. Further, it is also submitted by Mr. Vakharia that, in the Inquiry conducted by Assistant Charity Commissioner the elected candidates were not issued any notice and they were not present at any stage of the inquiry before the Assistant Charity Commissioner. It is accordingly submitted that, cancellation of the four duly elected members by the Assistant Charity Commissioner without hearing them is violative of principles of natural justice and on this ground alone the entire inquiry is required to be quashed. Learned counsel accordingly submitted that the order passed by the Assistant Charity Commissioner declaring the four defeated candidates as duly elected members in persuance of recounting is illegal and without jurisdiction and therefore, the four persons declared elected by Assistant Charity Commissioner on the basis of recounting should be set aside.

9. Mr. Prashant Desai, learned counsel appearing on behalf of the respondent Jt. Charity Commissioner and Assistant Charity Commissioner submitted that, notice was issued to Swami Satyaprakashdasji to remain present at the time of recounting. Mr. Desai however very fairly submitted that no notice was given to the duly elected members in the election of 14 & 15-12-1997 to remain present at the time of recounting. It is also admitted by Mr. Desai that these elected members were not present at the time of recounting, nor any person authorised by them were present when the recounting was done on 2-5-1998.

10. Mr. Kanabara, learned counsel representing some of the respondents submitted that Swami Satyaprakashdasji submitted the Change Report No. 15 of 1998 and the aforesaid Change Report contains the consent of four elected members elected in the election of 14 and 15-12-1997. Accordingly Mr. Kanabar submitted that,

notice to Swami satyaprakashdasji should be considered as an individual notice to the elected candidates who has given consent as member of the Board. Mr. Kanabar also tried to draw my attention to the evidence of respondents witness before the Assistant Charity Commissioner, from where it appears that some of the elected candidates were present when the hearing took place. Learned counsel submitted that when some of the elected candidates were present at the time of inquiry, it is not necessary to issue any notice to them and their knowledge of the inquiry before the Jt. Charity Commissioner is a sufficient notice and consequently they cannot take the plea that they were not heard and the principles of natural justice was violated while passing the order by the Assistant Charity Commissioner on 17-10-1998 cancelling their election.

11. I have considered submissions made by learned counsel of the contending parties. It appears, in the instant case the Assistant Charity Commissioner after receipt of the Change Report No. 15 of 1998 and after receipt of the complaint from some of the defeated candidates started an inquiry to examine the legality and validity of the election. Such an inquiry where Assistant Charity Commissioner is examining the legality and validity of the election, is certainly in the nature of quasi judicial proceeding. In such a quasi judicial proceeding where the validity of the election is being inquired, either of the parties may be affected by the order in such an inquiry. It is an admitted fact that four persons were duly elected in the election held on 14 & 15-12-1997 and they were declared to be elected by the Returning Officer on 15-12-1997 . It is also an admitted fact that no notice was issued to the duly elected candidates while the inquiry was conducted by the Assistant Charity Commissioner. Even no notice was given to the duly elected candidates for recounting of votes on 2-5-1998. All these were done in absence of duly elected candidates. When the inquiry is of such a grievous nature, I am of the view that atleast the duly elected candidates should have been issued notice by Assistant Charity Commissioner to participate in the inquiry and also notice should have been issued to the duly elected candidates before any recounting of votes are done. Nothing has been done in the present case. The duly elected candidates were kept in dark all through out and in absence of the duly elected candidates and without hearing the duly elected candidates, their election have been set aside by the Assistant Charity Commissioner by his order dated 17-10-1998. It is an admitted fact that in the scheme framed by the District Judge, Bhavnagar for

management of the trust properties no elaborate provision has been made for election of members of the Board. Neither any forum has been constituted for hearing the election disputes. Therefore it is the Assistant Charity Commissioner who makes an inquiry under section 22 of the Bombay Public Trust Act 1950 regarding validity of election before making any entry in the Register. Further the duly elected members submitted their consent letter to act as member of the Board and they have not authoritsed Swami Satyaprakashdasji to act on their behalf in the inquiry proceeding before the Assistant Charity Commissioner. Neither the elected members have authorised Swami Satyaprakashdasji to remain present on their behalf at the time of recounting. It is an admitted fact that the Assistant Charity Commissioner has gone into the validity of elections and even ordered the inspection of ballot papers, recounted them and on that basis the entire election which has been declared by the Returning Officer on 15-12-1997 has been reversed, causing serious prejudice to the duly elected members to whom no notice was issued by the Assistant Charity Commissioner. The requirement of such a notice is inherent by the very nature of the proceeding which are undertaken under section 22 of the Bombay Public Trusts Act, 1951. After declaration of result on 15-12-1997 when the proceedings were initiated by the Assistant Charity Commissioner so as to satisfy himself as to whether any change has occurred or not, the interest and rights of the duly elected members on the basis of such election became open and the entire process was undertaken and the entire inquiry was held in their absence. When orders regarding cancellation of the duly elected members is passed, it is definitely to their prejudice and such a party has always have the genuine feeling that such an order has been passed at their back and without hearing them, and such course of action certainly is against the principles of natural justice. Even in cases where the orders are of penal in nature such orders should not be passed in absence of the person or persons who are going to be affected by such an order. In the instant case the duly elected members in the election of 14 and 15-12-1997 have a right to work as member of the Board of Trustees but the Assistant Charity Commissioner by his order dated 17-10-1998 has cancelled their election, and in their place four other persons were declared elected on the basis of recounting. By the order of the Assistant Charity Commissioner the duly elected candidates were deprived of from functioning as members of the Board of the Trust and therefore they have a right to be heard in person or through their counsel before any adverse order against them is passed by any

authority. Therefore, I am of the view that the validity of the elected candidates cannot even be varied unless the party concerned is put to a formal notice to come and defend his election. In the instant case not only the election of duly elected candidates have been set aside but in their place some other persons have been declared elected. Therefore I am constrained to opine that the entire proceedings before the Assistant Charity Commissioner is vitiated for not issuing notice to the duly elected candidates and such an action cannot be allowed to stand.

12. At one stage of the litigation between the parties, it was directed by the Division Bench of this Court for a de novo inquiry by the Assistant Charity Commissioner, with the rider that the Assistant Charity Commissioner should only take into notice the factum of election without going into validity, correctness and propriety, including the result thereof. When the case was taken to the Supreme Court in Civil Appeal No. 3191 and 3192 of 1998, the Supreme Court directed as follows:-

> " It is not necessary for this Court to say anything on the above disputes. It will be open to the parties to raise their respective contentions before the Assistant Charity Commissioner regarding the scope of Sec. 22 and the jurisdiction of the Charity Commissioner to go into these issues. It is clarified that the observations of the High Court restricting the scope of the inquiry before the Assistant Charity Commissioner will not, therefore, be binding on him. "

Therefore it is evident that even though the Division Bench of this Court restriced to some extent the scope of inquiry, the Supreme Court has opened the scope of inquiry and to decide the issue by the Assistant Charity Commissioner himself. After the aforesaid order of de novo inquiry as modified by the Supreme Court, in fact de novo inquiry was not conducted by the Assistant Charity Commissioner and he has proceed from the stage from where stay order was granted by the High Court. It is argued by Mr. Kanabar, learned counsel appearing on behalf of the petitioner of Special Civil Application No. 985 of 1999 that, de novo inquiry does not necessarily mean the inquiry from the beginning. It can be started from the stage from where it was stopped by an order of the Court. I cannot agree with the submission of Mr. Kanabar when the order is being de novo inquiry, the Assistant Charity Commissioner should have proceeded the

inquiry from the date of declaration of the result by issuing notices to all the parties, especially the duly elected candidates. Neither the duly elected candidates were issued notice, nor the inquiry was started from the stage of declaration of result.

13. Having regard to the peculiar situation a suggestion was made to the learned counsel of all the parties for a fresh / de novo inquiry of the matter by Assistant Charity Commissioner. Learned counsel of all the parties agreed to such a suggestion. It is further submitted by Mr. P.M. Raval, Sr. counsel appearing on behalf of respondent No.5 that in the proposed de novo inquiry, the Assistant Charity Commissioner may start at the stage where the recounting was done. It is submitted by Mr. Rawal that, if the detailed procedure regarding assembly or parliamentary elections are to be proposed to be followed in the inquiry, then, it would be difficult to complete such an inquiry within a short time. Mr. Rawal, learned Sr. counsel accordingly submitted that, no question be raised by any of the parties regarding opening of ballot boxes especially in view of the fact that the ballot boxes have been already opened on 2-5-1998 and therefore, from that stage the inquiry may take place. It is further submitted by Mr. Rawal, Sr. counsel that the parties may make scrutiny of his valid and invalid votes or may make objection for admitting any invalid votes. But if any scope is given to raise any question about validity and/or for opening ballot boxes then that will delay the proceedings, because the parties may move the higher authority in appeal and even may file Special Civil Application in the High Court. It is true that in the scheme framed by the District Judge, Bhavnagar, no detailed provision has been made for conduct of election. Neither any forum has been created for deciding election disputes. Therefore from the Scheme of Bombay Public Trusts Act, it appears, it is the Assistant Charity Commissioner who can make an inquiry about legality or validity of any election while effecting any change in the Register of members of the Trust. Since the inquiry is summary in nature it may not be necessary for the Assistant Charity Commissioner to follow in detail the provisions of Election Rules for conducting he election of M.Ps, MLAs or local bodies where detailed provisions are made by Rules , Acts or by means of Standing Orders. Obviously the present inquiry will be a summary inquiry by the Assistant Charity Commissioner and I like to leave the matter to the wisdom of the Assistant Charity Commissioner to make inquiry in accordance with law. I do not like to restrict the sphere or ambit of Assistant Charity Commissioner while

taking up the de novo inquiry in the matter of election held on 14th and 15th Decemebr, 1997. It is further made clear that an early decision is required in the inquiry by the Assistant Charity Commissioner in view of the fact that the duly elected members may function as members of the Board of the Trust. It is admitted by learned counsel of all the parties that the Assistant Charity Commissioner is alone competent to decide the present dispute between the parties, and therefore, I am also of the view that the dispute should be decided by the Assistant Charity Commissioner afresh, in accordance with law, after hearing learned counsel of all the parties and after considering the papers and documents as produced in this group of cases. I am of the view that the order passed by the Assistant Charity Commissioner on 17-10-1998 and the order passed by the Jt. Charity Commissioner on 9-11-1998 should be quashed and accordingly the aforesaid orders are quashed. The Assistant Charity Commissioner is directed to make afresh/ de novo inquiry about election of 14th and 15th December 1997 in accordance with law and after decision make necessary changes in the Register accordingly. The Assistant Charity Commissioner is directed to complete the inquiry within 45 days from the date of receipt of this order and the parties are directed to appear before the Assistant Charity Commissioner, Bhavnagar Region at Bhavnagar on 16-10-2000 positively.

14. With the aforesaid observations and directions Special Civil Application No. 9464, 9465 and 10514 of 1998 are allowed and Special Civil Application No. 985 of 1999 is dismissed. Rule discharged in each of the petitions. I make no order as to costs. The aforesaid Special Civil Applications are disposed of accordingly. I make no order in Civil Applications filed in aforesaid Special Civil Applications.

15. It is an admitted fact that the member elected in pursuance of election held on 14/15th December 1997 have already assumed office as per the order passed by the Division Bench of this High Court, and therefore, they will continue in office till the de novo enquiry is completed by the Assistant Charity Commissioner.

Dt: 10-10-2000 (P.K. Sarkar, J)

/vgn.